



COUNTY OF LOS ANGELES  
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May 30, 2002

TO: SUPERVISOR ZEV YAROSLAVSKY, Chairman  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR YVONNE BRATHWAITE BURKE  
SUPERVISOR DON KNABE  
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN  
County Counsel

RE: **Voting System Replacement Litigation**

Last February, Judge Stephen Wilson of the United States District Court ordered the California Secretary of State to decertify punch card voting in California by March of 2004. On April 30, Judge Wilson denied the Secretary of State's motion for reconsideration.

We are now advised by the Secretary of State that he will not appeal Judge Wilson's ruling, and has issued his own proclamation advancing the decertification date to March, 2004. A copy of the Secretary's May 13 memorandum to all county clerks and registrars explaining his decision is attached.

LWP:HSM:mv

Attachment

c: David E. Janssen  
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer  
Board of Supervisors

Conny B. McCormack  
Registrar-Recorder/County Clerk

Executive Office  
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Business Filings  
Notary Public  
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Elections  
Information Technology  
Management Services  
Political Reform



**BILL JONES**  
Secretary of State  
State of California

**ELECTIONS**  
1500 - 11<sup>th</sup> Street, Room 590  
Sacramento, CA 95814  
P.O. Box 944260  
Sacramento, CA 94244-2600  
(916) 657-2166  
Voter Registration Hotline  
1-800-345-VOTE  
For Hearing and Speech Impaired  
Only 1-800-833-8683  
(916) 653-3214 FAX  
Internet: www.ss.ca.gov

May 13, 2002

TO: All County Clerks/Registrars of Voters (02129)

FROM:

*John Mott-Smith*  
**JOHN MOTT-SMITH**  
Chief, Elections Division

SUBJECT: **UPDATE ON COMMON CAUSE v. JONES**

The purpose of this memo is to update you on the status of this lawsuit.

In a nutshell, Common Cause et al sued the Secretary of State in federal court to require the decertification of Votomatic and Pollstar voting systems in California.

Independent of that lawsuit, on September 18, 2001, Secretary of State Bill Jones decertified the Votomatic and Pollstar systems, just days after the Legislature sent his "Democracy Fund" proposal (Proposition 41) to the Governor's desk. The original effective date for decertification was **January 1, 2006** in order to give counties and voters adequate time to properly transition to more modern voting systems.

As a part of that decertification, however, Secretary Jones committed to holding hearings to determine if the date of decertification could be sooner than 2006. At these hearings, election officials from each of the 9 counties affected by decertification indicated that conversion by 2004 could seriously jeopardize the election process, but that they would like to "try out" the new system in 2005 prior to using it in a statewide election in 2006.

As a result of the record of these hearings Secretary Jones moved the decertification date to **July 1, 2005**.

Notwithstanding the testimony and evidence of these election experts, on February 20, 2002 Judge Stephen V. Wilson issued an order, without even the benefit of a trial, ordering decertification of Votomatic and Pollstar systems in elections after March 1, 2004.

Our office filed a motion for reconsideration, asking Judge Wilson to consider the public interest in allowing the 9 counties more time to convert to new voting systems. The court, on April 26, 2002, denied that motion.

While we still believe in the merits of the case, and are concerned that the judge's order could cause serious harm to voters in the 2004 election, Secretary of State Jones has decided that our office will not appeal Judge Wilson's ruling. Simply put, by the time an appeal is heard, even on an expedited briefing schedule, the case is remanded for trial, the trial takes place, and a new decision is rendered, we would be late into 2003, the 9 affected counties will probably already be implementing their new voting systems, and the issue would essentially be moot.

**Our office will, not later than May 23, 2002, issue a new proclamation, as required by the court, decertifying Votomatic and Pollstar voting systems effective March 1, 2004.**

If you have any questions about this case, or if I can provide you with any further information, please do not hesitate to call.

B&E/noappeal-2-052

CALIFORNIA SESQUICENTENNIAL → LOS ANGELES

05/23/02 15:54

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**BILL JONES**  
 Secretary of State  
 State of California

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May 23, 2002

TO:

Brad Clark, Alameda County  
 Conny McCormack, Los Angeles County  
 Marsha Wharff, Mendocino County  
 Ernest R. Hawkins, Sacramento County  
 Sharon Beringson, San Bernardino County  
 Sally McPherson, San Diego County  
 Ann Reed, Shasta County  
 Laura Winslow, Solano County

FROM:

*John Mott-Smith*  
**JOHN MOTT-SMITH**  
 Chief, Elections Division

SUBJECT:

**DECERTIFICATION OF VOTOMATIC AND POLLSTAR VOTING  
 SYSTEMS**

Attached please find, pursuant to the order of federal Judge Stephen Wilson, a proclamation for the final implementation date for the decertification of Votomatic and Pollstar voting systems.

If you have any questions, please feel free to call me directly at 916/853-3228.

B&amp;E/finaldecert-052

*"Ensuring the integrity of California's election process."*

*Enc  
 ELEC  
 ELEC ARRS  
 ELEC Div Mgrs  
 DW*

05/23/02 15:54

CALIFORNIA SESQUICENTENNIAL - LOS ANGELES

**SECRETARY OF STATE****PROCLAMATION****FINAL IMPLEMENTATION DATE FOR THE DECERTIFICATION OF VOTOMATIC AND POLLSTAR VOTING SYSTEMS IN THE STATE OF CALIFORNIA**

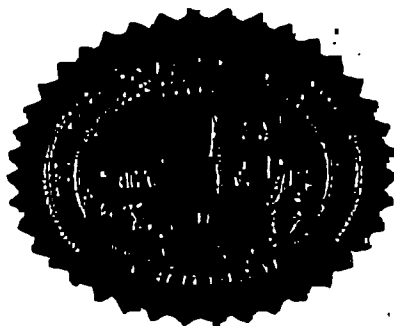
On September 18, 2001, I issued an order effective January 1, 2006 decertifying Votomatic and PollStar pre-scored punch card voting systems. These systems had been used for 30 years and are now outdated. I directed my staff to conduct a statewide survey of counties, election officials and vendors of voting systems, to determine the earliest practical date for a safe and responsible transition to new voting systems.

After consulting with election experts from across California, we determined that the earliest date by which the nine most directly affected counties could ensure an orderly transition to new voting equipment while still expediting improvements for voters was July 1, 2005. I issued a proclamation setting that date on December 17, 2001.

To provide counties with the resources they need to purchase new voting equipment, my office sponsored legislation which resulted in the passage of a \$200 million "Voting Modernization Bond Act" in March 2002. It now appears likely that federal funds will also be available.

The careful planning by the Secretary of State, the wisdom of county election experts in the affected counties, and the public interest were ignored by a federal court which, without a trial, ordered this office to advance the date for the decertification of pre-scored punch card voting systems to March 1, 2004.

This rapid conversion may deprive California's voters of an historic opportunity to acquire the best of modern voting system technology. Nevertheless, pursuant to a federal court order, I hereby advance the effective date for the decertification of Votomatic and Pollstar voting systems to March 1, 2004.



IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this  
23<sup>rd</sup> day of May, 2002.

**BILL JONES**  
Secretary of State